

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION – BAY CITY**

In re:

BOYCE HYDRO, LLC, *et al.*

Debtors.¹

Chapter 11

Case No. 20-21214

Hon. Daniel S. Opperman

**LIQUIDATING TRUSTEE’S MOTION FOR ENTRY OF AN ORDER
EXTENDING THE TERM OF THE BOYCE HYDRO LIQUIDATING TRUST**

The Liquidating Trustee of the Boyce Hydro Liquidating Trust, Scott A. Wolfson (“Liquidating Trustee”), through counsel, for his *Motion For Entry of an Order Extending the Term of the Boyce Hydro Liquidating Trust* (“Motion”), states:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding under 28 U.S.C. § 157(b).
3. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal taxpayer-identification number, are: (i) Boyce Hydro, LLC (6694), Case No. 20-21214 and (ii) Boyce Hydro Power, LLC (3034), Case No. 20-21215.

BACKGROUND

A. Case Background

4. Debtors commenced voluntary cases under Chapter 11 of Title 11 of the United States Code ("Bankruptcy Code") on July 31, 2020.

5. On February 23, 2021, Debtors filed their *Fourth Modified Joint Consolidated Chapter 11 Plan of Liquidation* ("Plan"). [ECF No. 481].

6. On February 25, 2021, the Bankruptcy Court entered the *Non-Consensual Order Confirming Debtors' Fourth Modified Joint Consolidated Chapter 11 Plan of Liquidation* ("Order Confirming Plan"). [ECF No. 489].

7. The Order Confirming Plan approved the establishment of the Boyce Hydro Liquidating Trust ("Liquidating Trust") and Scott A. Wolfson's appointment as the Liquidating Trustee of the Liquidating Trust as of the Effective Date.

8. The Boyce Hydro Liquidating Trust Agreement [ECF No. 492-2] ("Liquidating Trust Agreement"), along with the Plan, governs the Liquidating Trust. [Plan Article VII.G].

9. The Effective Date of the Plan occurred on March 3, 2021. [ECF No. 493].

10. The initial term of the Liquidating Trust is three years from the Effective Date of the Plan, expiring on March 3, 2024. [ECF No. 492-2].

11. Section 8.2 of the Liquidating Trust Agreement states:

If, after three (3) years from the Effective Date of the Plan, the dissolution and termination of the Liquidating Trust has not occurred pursuant to Section 8.1, and the Liquidating Trustee determines that the facts and circumstances necessitate an extension of the duration of the Liquidating Trust in order to effectuate its purpose, the Liquidating Trust may be extended for a period of twelve (12) months. The Liquidating Trustee may, upon the expiration of the extended term, seek additional extensions of twelve (12) months if warranted by the facts and circumstances. Any extension of the duration of the Liquidating Trust, as provided for herein, shall be subject to approval by the Bankruptcy Court. The Liquidating Trustee shall seek approval of any such extension within six months after the expiration of the initial three (3) year term or any extension thereof.

(Liquidating Trust Agreement, § 8.2).

12. As set forth below, the Liquidating Trustee believes that extending the term of the Liquidating Trust is necessary to effectuate the purposes of the Liquidating Trust.

RELIEF REQUESTED

13. The Liquidating Trustee seeks entry of an order, substantially in the form of attached Exhibit 1, extending the term of the Liquidating Trust

for a period of twelve months.

BASIS FOR RELIEF

14. Since the Effective Date, the Liquidating Trustee has, and continues to, fulfill his duties as Liquidating Trustee under the Plan and Liquidating Trust Agreement.

15. Among other things, the Liquidating Trustee has liquidated and collected all known assets of the Liquidating Trust; resolved pending litigation; reviewed and reconciled the claims registry including objecting to claims as necessary; filed tax and regulatory forms, returns, reports; and otherwise taken all actions reasonably necessary to implement the Plan.

16. The Liquidating Trustee believes that an extension is necessary for the Liquidating Trustee to facilitate and complete the claims reconciliation process, make distributions to creditors, and generate and file the necessary tax returns, reports, or other necessary financial statements for the Liquidating Trust. These processes must be completed for the Liquidating Trustee to fulfill his responsibilities under the Liquidating Trust Agreement and effectuate the Plan.

17. The facts and circumstances necessitate an extension of the Liquidating Trust for twelve months, through and including March 3, 2025.

The Liquidating Trustee reasonably anticipates that Liquidating Trust activities will be wound down and concluded before this date.

18. Pursuant to Section 9.7 of the Liquidating Trust Agreement, this Court has exclusive jurisdiction to implement and enforce the terms of the Liquidating Trust Agreement. [ECF No. 492-2].

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter an order in the form attached as Exhibit 1 and grant such additional relief as the Court may deem just and equitable.

Respectfully submitted,

WOLFSON BOLTON KOCHIS PLLC
Counsel for the Liquidating Trustee

Dated: January 25, 2024

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EXHIBIT INDEX

EXHIBIT 1	Proposed Order
EXHIBIT 2	Notice of Motion and Opportunity to Respond
EXHIBIT 3	n/a
EXHIBIT 4	Certificate of Service
EXHIBIT 5	n/a

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EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION – BAY CITY**

In re:

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Chapter 11

Case No. 20-21214

Hon. Daniel S. Opperman

**ORDER GRANTING LIQUIDATING TRUSTEE'S
MOTION TO EXTEND THE TERM OF THE
BOYCE HYDRO LIQUIDATING TRUST**

This matter having come before the Court upon the Liquidating Trustee's *Motion for Entry of an Order Extending the Term of the Boyce Hydro Liquidating Trust* ("Motion");² the Court having reviewed the Motion; the Court having found that: (a) jurisdiction to consider the Motion is proper under 28 U.S.C. §§ 157 and 1334; (b) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (c) notice of the Motion was properly provided; (d) good cause exists to grant the relief requested in the Motion; (e) the relief requested in the Motion is in the best interests of the Debtors, the Debtors' estates, and creditors of the Debtors' estates; and (f)

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² Capitalized terms used but not defined in this Order have the meanings given to them in the Motion.

all objections, if any, to the Motion having been withdrawn, waived, settled, or overruled;

IT IS HEREBY ORDERED that:

1. The Motion is granted.
2. The term of the Boyce Hydro Liquidating Trust is extended by twelve months, through and including March 3, 2025.
3. The Liquidating Trustee is authorized to take all actions necessary to effectuate the relief granted in this Order and in accordance with the Motion.
4. This Court retains jurisdiction over all disputes arising under or otherwise relating to the construction, performance, and enforcement of the terms of this Order.

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In re:

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Chapter 11

Case No. 20-21214

Hon. Daniel S. Opperman

**NOTICE OF LIQUIDATING TRUSTEE’S MOTION FOR ENTRY OF AN
ORDER EXTENDING THE TERM OF THE BOYCE HYDRO
LIQUIDATING TRUST AND OPPORTUNITY TO RESPOND**

The Liquidating Trustee, Scott A. Wolfson, through counsel, has filed papers with the Court seeking to extend the term of the Liquidating Trust for a period of twelve months.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney you may wish to consult one.)

If you do not want the court to grant the relief requested in the Motion, or if you want the court to consider your views on the Motion, within **14 days**, you or your attorney must:

1. File with the court a written response of answer², explaining your position at:

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² Any response or answer must comply with F. C. Civ. P. 8(b), (c), and (e).

U.S. Bankruptcy Court
Eastern District of Michigan
111 First Street
Bay City, Michigan 48708

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Wolfson Bolton Kochis PLLC
Attn: Anthony J. Kochis
3150 Livernois, Suite 275
Troy, MI 48083

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the Motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion or objection and may enter an order granting that relief.

Respectfully submitted,
WOLFSON BOLTON KOCHIS PLLC
Counsel for the Liquidating Trustee

Dated: January 25, 2024

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CERTIFICATE OF SERVICE

I certify that, on January 25, 2024, I caused the *Liquidating Trustee's Motion For Entry of an Order Extending the Term of the Boyce Hydro Liquidating Trust* to be electronically filed with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF participants requesting electronic service, including the following:

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